



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2007 MAR 19 PM 1:36

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2006-0063

IN THE MATTER OF:

FLYING J OIL & GAS, INC.

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 19TH Day of March, 2007.

Elyana R. Sutin
Regional Judicial Officer

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Respondent's responsibilities under the Consent Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Pursuant to SDWA § 1423(c)(4)(B), 42 U.S.C. § 300h-2(c)(4)(B), the nature of the alleged violation, and other relevant factors, EPA determined that an appropriate civil penalty to settle this action is in the amount of ten thousand dollars (\$10,000).

6. Respondent consents to the issuance of the Consent Agreement, its incorporation into a final consent order and, for the purposes of settlement, to the payment of the civil penalty cited in paragraph no. 5 above.

7. Respondent consents and agrees to pay the ten thousand dollar (\$10,000) penalty as follows:

- a. Payment is due within 30 calendar days from the date written on the Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
- b. The payment shall be made by remitting by regular mail a cashier's or certified check, including the name and docket number of this case, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68010727

A copy of the check shall be sent simultaneously to:

Amy Swanson
Legal Enforcement Program (8ENF-L)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty

interest, and late interest. The remainder is then applied to the outstanding principal amount.

- e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

8. Complainant has verified that effective June 1, 2006, Respondent elected to use a bond and standby trust agreement as an acceptable financial instrument for the Davis 1-33A1E well, and has resolved the violation alleged in the Complaint of the SDWA, 40 C.F.R. § 144.52(a)(7), and part III(F) of UIC Permit No. UT20881-04555.

9. Nothing in this Consent Agreement shall relieve Respondent of its obligation to comply with the SDWA, its implementing regulations and permit conditions.

10. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of the agreement and for such other relief as may be appropriate.

11. Nothing in the Consent Agreement shall be construed as a waiver by EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of the Consent Agreement.

12. Respondent's undersigned representative certifies that he is fully authorized to enter into and bind Respondent to the terms and conditions of the Consent Agreement.

13. The Parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

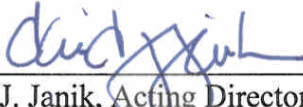
14. Each party shall bear its own costs and attorneys fees related to this matter.

15. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and upon full satisfaction by the parties, shall constitute a complete and full civil settlement of the specific violations alleged in the Complaint.


SO CONSENTED AND AGREED TO:

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY REGION 8,
Complainant.**

Date: 3.19.07

By: 
David J. Janik, Acting Director
Matthew Cohn, Acting Deputy Director
Legal Enforcement Program


Date: 3/16/07

By: 
Elisabeth Evans, Director
Technical Enforcement Program

**FLYING J OIL & GAS INC.,
Respondent.**

Date: 3/19/2007

(ALB for Flying J)
g

By: 
Chris J. Malan
Vice President and General Counsel

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **FLYING J OIL & GAS, INC., DOCKET NO.: SDWA-08-2006-0063** was filed with the Regional Hearing Clerk on March 19, 2007.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on March 19, 2007, to:

Chris J. Malan, General Counsel
Flying J Oil & Gas, Inc.
333 West Center Street
North Salt Lake, Utah 84054

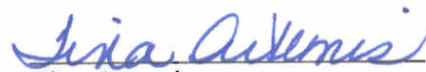
Hand-delivered to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202-1129

E-mailed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

March 19, 2007


Tina Artemis
Regional Hearing Clerk/Paralegal



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